

City of Detroit

CITY COUNCIL

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TO: The Honorable City Council

FROM: David Whitaker 
Julianne Pastula 

DATE: March 17, 2006

RE: **RELATIONSHIP BETWEEN CITY OF DETROIT DEMOLITION LIENS
AND THE WAYNE COUNTY TAX FORECLOSURE PROCESS**

At the Honorable City Council's request, the Research & Analysis Division (RAD) submits the following report in regard to demolition costs incurred by the City of Detroit through its Dangerous Buildings process and the City's rights as lien holder after the Wayne County forecloses on the property due to non-payment of property taxes. The report also provides the current tax status of buildings on the March 6th, 13th and 20th demolition lists.

I. Tax Reversion

Pursuant to the General Property Tax Act¹, Wayne County is responsible for the tax reversion and foreclosure process. Public Act 246 of 2003 requires Wayne County to collect delinquent taxes for both the City of Detroit and the County². As background, a very brief summary of the tax reversion process follows:

- 1st year – Delinquency. Unpaid property taxes are forwarded from the City to the County as delinquent. The County is responsible for collecting outstanding City and County property taxes.
- 2nd year – Forfeiture. Property is forfeited to the County for the unpaid delinquent taxes that are two years in arrears.
- 3rd year – Foreclosure. County files Petition for Foreclosure in Wayne County Circuit Court for a judicial hearing regarding foreclosure based on the delinquent tax amount. If the property is not redeemed by payment of the delinquent tax amount including fees and interest, title to the property is vested in the County and can be auctioned.

¹ 1893 PA 206 and the amendments contained in 1999 PA 123.

² Please refer to RAD's report *Analysis of Enrolled Senate Bill 700 & The Bill's Impact on Foreclosure Procedures and Redemption Rights*, dated January 26, 2004, for more details on the collection of current and delinquent taxes.

II. Demolition Liens

The Department of Buildings and Safety Engineering (B&SE) files a lis pendens with the Wayne County Registrar of Deeds for properties on the demolition list. After demolition, the City files the actual cost of the demolition.

According to State law, recorded liens are extinguished upon foreclosure by the foreclosing governmental unit (Wayne County). Very few liens are able to survive the foreclosure process. Environmental liens are specifically identified in the statute. Internal Revenue Service federal tax liens may be preserved if pursued by the agency. Certain types of special assessments³ may also be preserved. Demolition liens are extinguished upon foreclosure and cannot be preserved.

If the amount charged by the City's wrecking vendor for demolition or only the notice of the lien (rather than the actual amount) is recorded prior to the property being foreclosed by the County, the lien is extinguished upon foreclosure⁴. According to the Deputy County Treasurer, if the City demolishes a structure after the foreclosure process and records its lien, the lien is extinguished at the end of the year if the property is not sold at auction. There are numerous timing scenarios that can occur relative to the recording of the demolition lien and the tax reversion process. Regardless of when the lien is attached, if the property is foreclosed, the lien is extinguished⁵. This permits the County to auction the property and pass fee simple title⁶ to the successful bidder. It also protects the County and subsequent owners of the property from a claim of interest by a third party.

The County returns the tax amount due to the City for the year the property is foreclosed upon. For example, if a property has unpaid 2003 taxes and has a foreclosure judgment against it, the County will return the City's portion of the 2003 taxes. The City does not receive outstanding 2004 taxes on the same property. This is why it is imperative that residents pay the most delinquent tax amount first to avoid property foreclosure.

III. Dangerous Building Hearings

RAD received this assignment during the Dangerous Buildings hearing on March 6, 2006. Therefore, we have conducted an analysis of the data contained in the Memorandums prepared by RAD for the March 6th, 13th and 20th hearings. A chart is attached to this report to provide a visual of the break down of the tax status of the properties on the demolition list.

A. March 6th Data

65% of the properties listed have outstanding tax issues. Out of 31 total properties listed in the Memorandum, three (3) have already been foreclosed⁷. Nine (9) properties have forfeited taxes from the year 2003. These properties are currently in the foreclosure stage. Property

³ Examples include water and sewerage liens and easements.

⁴ M.C.L. 211.78(m)(13).

⁵ This conclusion was reached by RAD's research, and was concurred in by the City's Law Department the County Treasurer's office.

⁶ The broadest property interest allowable under law, the holder of a fee simple title has absolute title to the land.

⁷ For example, the property located at 13430 E. McNichols was foreclosed in March of 2005.

owners have until March 31, 2006, to redeem the property or title vests with the County. Therefore, a total of twelve (12) or approximately 39% of the parcels could have the demolition liens extinguished this year⁸. Almost the same number of parcels had taxes for the year 2004 forfeited to the County this year. These properties, if not redeemed, will be foreclosed upon in 2007⁹.

B. March 13th Data

The total number of properties listed is thirty-two (32). Sixteen (16) or 50% have outstanding taxes due. The raw data for the one-half of the properties with outstanding taxes indicates that two (2) had been previously foreclosed and seven (7) are currently in foreclosure proceedings. Therefore, 28% of the properties on the March 13th list could have their liens extinguished this year. The remaining seven parcels with outstanding taxes will be foreclosed upon in 2007, if the delinquent tax amounts are not paid.

C. March 20th Data

69% of the total properties listed have outstanding tax issues. Examination of the sixteen (16) properties listed for demolition indicates that 31% or five (5) could have the demolition liens extinguished this year. An additional six (6) are set for foreclosure next year.

IV. Additional Considerations

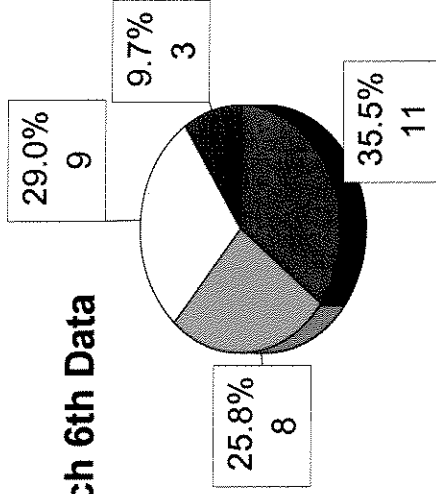
The primary functions of the demolition program are to reduce blight and remove dangerous structures within the City of Detroit. Weighing these important functions with expending city resources for demolition costs without the possibility to recoup the funds is also an important consideration. In examining the data sets from the three previous demolition lists, it appears that at least half of the properties listed are in some stage of the tax reversion process. An accurate federal grant amount for demolition must be known before trying to estimate the amount of city funds used for demolition and making a cost-benefit analysis. If federal grant money is primarily used to fund the demolition process, the fiscal impact of the City's inability to recoup the demolition liens after foreclosure is significantly lessened. Even if the use of federal funds in the form of block grants does not negatively impact the City's General Fund, demolition may not be the best use of block grant funds. If the funds were not being spent on demolition costs, they could be invested in rebuilding neighborhoods. Development of a mechanism for the County to assume the financial responsibility for the property should be explored so that the City is not allocating valuable resources to demolish properties that are under the control of the County or will be under the County's control in a short matter of time.

⁸ For example, the property located at 10026 Forrer that was discussed at the table during the March 6th hearing has \$1,634.27 in forfeited taxes. The unpaid 2003 taxes totaling \$602.57 inclusive of interest and fees currently has a foreclosure judgment. If not redeemed by March 31st of 2006, the title will pass to the County.

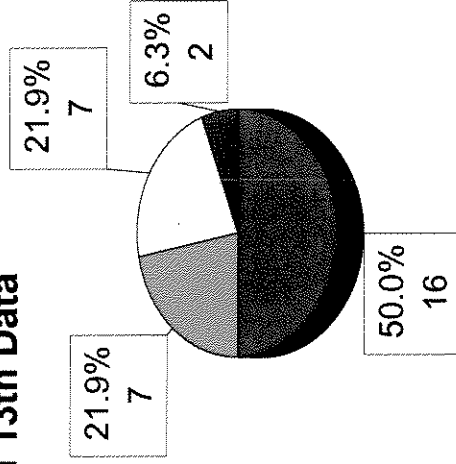
⁹ For example, the property locate at 4261 Richton has \$2,299.19 in forfeited 2004 taxes as well as \$756.31 in interest and fees. In order to avoid foreclosure in March 2007, the property owner would have to pay \$3,055.50. This figure is accurate as of March 13, 2006. The current amount due will change with the addition of interest and fees until the property is redeemed or foreclosed.

Tax Status of Demolition Properties

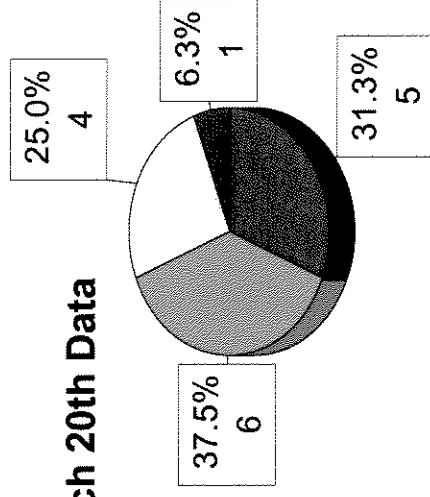
March 6th Data







March 13th Data



March 20th Data



-  Previously foreclosed
-  2003 Forfeited. Foreclosure final on April 1, 2006
-  2004 Forfeited. Will be foreclosed in 2007
-  No outstanding taxes listed